IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.6236 OF 1998

Miss Namita Bhimashankar Uplap
Through father and guardian
Shri Bhimashankar Iranna Uplap
Uplap Bunglow, 113/1-2-3. ..Petitioner

Vs.

1.The State of Maharashtra
Through its Secretrary,
Tribal Development Deptt.
Mantralaya, Mumbai 400 032.

2.Chairman
Committee for Scrutiny and
Verification of Tribe Claims,
28, Queens Garden, Pune.

3.Principal, Walchand Institute
of Technology Solapur.

4.Directorate of Technical Education,
M.S., 3, Mahapalika Marg, Dhobi
Talao, Mumbai. ..Respondents

Mr.R.K.Mendadkar with Ms. Helen Koli Mandlik
for Petitioner
Mr.C.R.Sonawane, A.G.P. for Respondent nos.1 to 4

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 8TH FEBRUARY, 2005.

JUDGMENT (PER SHRI F.I. REBELLO, J.)

. The Petitioner by now a major, challenges the decision of the Committee for scrutinising and verification of Tribes, Pune dated 19th September, 1998. By that order the Petitioner's claim as belonging to Mannervarlu (S.T.) has been rejected. At the hearing of this petition on behalf of the Petitioner it is sought to be submitted that blood

relations of the Petitioner in the past have been held as belonging to the Mannervarlu (S.T.). This evidence ought to have been considered and not rejected by the Committee. It is further submitted that admittedly in the service record of the Petitioner's father, this is shown as Mannervarlu. The Committee could not have ignored this documentary evidence. The Committee it is submitted wrongly relied on the School Leaving Certificate where the the caste of the father was shown as 'Telgu'. It is pointed out that 'Telgu' is language and as such could not have been considered to be a tribe. It is then pointed out that the Committee totally misdirected itself in law in holding that Mannervarlu is not a separate Tribe but it is a synonym of Kolam, S.T. at serial no.27 of the list of Schedule Tribes. It is pointed out that Mannervarlu is an independent scheduled tribe has been so held by a Division Bench of this Court in Writ Petition NO.471 of 1985 in the case of **Vijayalaxmi Kishanrao Ambulgekar Vs. Government of Maharashtra and another decided on 15th October, 1985.** It is further submitted that it was not open to the Committee to determine whether a particular community referred to in the Schedule is Scheduled Tribes and in the judgment of Division Bench of this Court in **Pandurang Rangnath Chavan Vs. State of Maharashtra and others 1998(2) Maharashtra Law**

Journal, 806. It is also submitted that the Committee wrongly placed reliance on the judgment in the case of **Dadaji alias Bhima Dina Vs. Sukhdeobabu and others, A.I.R. 1980, 150.** It is pointed out that judgment would not be attracted as rightly explained that the Division Bench of this Court in Vijayalaxmi Ambulgekar (Supra) there was a comma between Kolam and Mannervarlu (i.e. Kolam,Mannervarlu). It is also submitted that the caste certificate of blood relation ought not to have been discarded.

2. On the other hand, on behalf of the Respondents their learned Counsel points out that the Committee has rightly relied upon the School Leaving Certificates of the Petitioner's fathers brother, whose caste has been shown as **'Telgu Phulmali'.** It is pointed out that in so far as the father is concerned in his school records also, there is absence of Munnervarlu and merely because subsequently obtained the Tribe Certificate and got it included ind the service records would not entitle him to any benefits. In so far as the verification done before the judgment in Madhuri Patil, it is pointed out that those documents can be of no assistance considering that the verification has now to be done by an expert Committee as set out in the case of Madhuri Patil in said case. The

decision before Madhuri Patil and the certificates issued earlier could not have been considered and have been rightly rejected by the Committee. It is also pointed out that the Committee after examining and hearing the petitioner has recorded a finding of fact the information conveyed by the petitioner indicates that she belongs to **'Telgu Phulmali caste**. For all the aforesaid reasons it is submitted that this Court should not exercise its extra ordinary jurisdiction.

. During the pendency of the petition pursuant to an interim order, the petitioner was allowed to prosecute the status in the Engineering College. She has since passed out and has obtained her Degree in Engineering.

3. The first question therefore that has been considered is whether the finding by the Committee and placing reliance on the judgment in the case of Dadaji alias Dina (Supra) can be justified and if not whether the impugned order is liable to be set aside on that count. We proceed to consider the judgment in the case of Dadaji alias Dina (Supra). We find that, it was in connection with entry 18 of the Tribes certified for the State of Maharashtra. The entry showed that Gond included several other sub tribes. Learned Counsel for the Petitioners

points out that has been subsequently amended and the word includes has now been omitted. It is therefore pointed out that the ratio of the judgment in Dadaji alias Dinna cannot be made applicable in the instant case. We find merit in the contention as urged on behalf of the petitioner. A Division Bench of this Court in the unreported judgment in Vijayalaxmi Krishnarao Ambulgekar had noted that 'Kolam-Mannervarlu' are different tribes. Once this judgment was in the field it was not open to the Committee to have taken a different view. There is nothing before us to take a view contrary to that decision as there is no other material placed before us. In our opinion however, merely because of the wrong application of ratio of the judgment in the case of Dadaji alias Dina (Supra) it is not possible to set aside the order on that count alone.

. It is then pointed out that the Committee wrongly addressed itself on the issue . From the evidence produced before it, it has come to the conclusion that the material would show that the Petitioner belongs to the Telgu-Phulmali caste which is included in Special B. C. List.

4. That brings us to the next contention as to whether the Committee could reject the caste certificate of Kumari Kalpana Ranchod Uplap. That

was the decision taken some time in the year 1979 before the judgment of Apex Court in Madhuri Patil. It is also not possible to know from the letter dated 13th September, 1979 as to what was the procedure followed in holding that Kumari Kalpana Ranchod Uplap belongs to the Munnervarlu S.T. Tribe. The Committee however noted that before the judgment in Madhuri Patil, there was no provision for school and home enquiry, and as such did not take into consideration the letter of 13th September, 1979. The other documents relied upon were of Shri Shridhar alias Sanjay Iranna is the uncle of the petitioner. He was issued a Tribe Certificate amongst other relying on the caste certificate of Kalpana Uplap. This was also before the judgment in Madhuri Patil.

. The Committee considered the caste of two of the petitioners uncles namely father’s brothers. In their school records caste was recorded as Telgu-Phulmali. This was obtained pursuant to the Enquiry conducted by the Vigilance Cell. These documents and were made available to the petitioner. Apart from that the earlier document of the petitioner’s father as recorded in High School was shown as Telgu. The petitioner herself did not have her caste recorded in the High School Leaving Certificate. The Committee considering those

documents and came to the conclusion that the petitioner did not belong to the Munnervarlu S.T. caste.

. This according to us is purely a finding of fact and that finding is not perverse. The report of the Committee was based on the documents obtained by the Vigilance Cell which was made available to the petitioner. We therefore are not inclined to interfere with the decision of the Committee.

5. However, the petitioner seems to have obtained her Engineering Degree. Considering that we are not inclined to interfere in so far as that aspect is concerned provided the petitioner within four weeks from today, files an affidavit in this Petition that neither she nor her progeny would claim as Munnervarlu S.T. In the event the undertaking is not filed it will be open to Respondents to move this Court for further directions. The petitioner to intimate to the learned A.G.P. about filing of the undertaking in the present petition.

6. Rule made partly absolute. A copy of the undertaking be also filed in the College where the petitioner was admitted so as to effect corrections in the records if any.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)